

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

UNITED STATES SECURITIES  
AND EXCHANGE COMMISSION,

Plaintiff,  
v.

DRIVE PLANNING, LLC, and  
RUSSELL TODD BURKHALTER,

Defendants,  
and

JACQUELINE BURKHALTER,  
THE BURKHALTER RANCH  
CORPORATION, DRIVE  
PROPERTIES, LLC, DRIVE  
GULFPORT PROPERTIES LLC,  
and TBR SUPPLY HOUSE, INC.,

Relief Defendants.

Case No. 1:24-cv-03583-VMC

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**RECEIVER'S UNOPPOSED MOTION FOR AUTHORIZATION  
TO EMPLOY AND PAY RETAINER TO JOHN PIKOFF AND  
PIKOFF ATTORNEYS TO SERVE AS COUNSEL  
FOR RECEIVER IN SAN JOSE DEL CABO, MEXICO**

Kenneth D. Murena, as Court-Appointed Receiver (the "Receiver") in the above-styled action, through undersigned counsel, hereby files his Motion for Authorization to Employ and Pay Retainer to Johnathan Pikoff and Pikoff Attorneys to Serve as Counsel for Receiver in San Jose del Cabo, Mexico, to assist with the sale of real property in which the Receivership Estate has an interest, the preparation

of transaction and related documents, and the recovery of the sale proceeds, and states as follows:

1. This action commenced on August 13, 2024, with the filing of the Securities and Exchange Commission’s (“SEC”) Complaint against Defendants Drive Planning, LLC and Russell Todd Burkhalter and Relief Defendants Jacqueline Burkhalter, The Burkhalter Ranch Corporation, Drive Properties, LLC, Drive Gulfport Properties LLC, and TBR Supply House, Inc.

2. On August 13, 2024, the Court entered an Order Appointing Receiver (the “Appointment Order”), appointing Kenneth D. Murena, Esq. as Receiver of Drive Planning, LLC (“Driving Planning”). Pursuant to the Appointment Order, the Receiver is authorized to, among other things, “engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, . . . financial or business advisers, forensic experts, . . . or auctioneers.” *See* Appointment Order at ¶ 5. Prior to engaging any such professionals, the Receiver must first obtain an Order of this Court authorizing such engagement. *See* Appointment Order at ¶ 58. Any professionals that the Receiver engages with this Court’s approval are “entitled to reasonable compensation and expense reimbursement from the Receivership Estate as described in the ‘Billing Instructions for Receivers in Civil Actions Commenced

by the U.S. Securities and Exchange Commission' agreed to by the Receiver." *Id.* at ¶ 58.

3. Accordingly, pursuant to the Appointment Order, the Receiver seeks the Court's approval to engage and pay Johnathan Pikoff and Pikoff Attorneys from San Jose del Cabo, Mexico as counsel to the Receiver in San Jose del Cabo, Mexico. Specifically, Mr. Pikoff will represent the Receiver for the specialized purpose of advising on Mexican legal issues related to the Drive Planning LLC Receivership Estate's interest in certain real property located in San Jose del Cabo, coordinating marketing it for sale, and the preparation of transaction and related documents necessary to effectuate transfers of title, the sale of that real property, and the Estate's recovery of the sale proceeds.

4. Prior to retaining Mr. Pikoff, the Receiver had identified real property in San Jose del Cabo, Mexico that was purchased with funds traceable to Drive Planning, LLC's investors and that is owned by an entity that was owned by Drive Planning LLC and another entity. The Receiver reached an agreement with the owners of that entity to transfer 100% of their ownership interests to the Estate to allow the Receiver to take control and possession of the property, ensure it is properly maintained, market it for sale, and deposit the sale proceeds in the Receiver's fiduciary account for the Receivership Estate. Thereafter, the owners of the entity that owned a 50% interest in the property executed an Assignment of their

interests in the entity and withdrawal as members thereof, and related documents, transferring 100% of their interests in the entity to the Estate. As such, the Estate now owns 100% of the entity that owns the property in Mexico. Accordingly, the Receiver needs the assistance of counsel in Mexico to advise on Mexican legal issues and assist with marketing the real property for sale, preparing the transaction and other documents necessary to effectuate the transfers of title and the sale of the property, and ensure that the sale proceeds are deposited in the Receiver's fiduciary account for the Estate, in fulfillment of the Receiver's duties under the Appointment Order.

5. The Receiver's law firm previously employed Mr. Pikoff in another receivership arising from a government enforcement action to advise on and effect the sale of a luxury home in San Jose del Cabo, which was also the property of a receivership estate, and he was an invaluable resource.

6. In accordance with the retainer letter from Pikoff Attorneys, attached hereto as **Exhibit A**, Mr. Pikoff's law firm's hourly rates range from \$100 for paraprofessionals to \$625 for Mr. Pikoff. However, Mr. Pikoff has agreed to cap his hourly rate at \$550 for this engagement.

7. The Receiver proposes to pay to Pikoff Attorneys an advance retainer of \$5,000 to be applied to the balances of the periodic invoices it provides to the Receiver detailing the services its attorneys and paraprofessionals render pursuant

to this engagement. The Receiver proposes that Pikoff Attorneys be permitted to apply the entire \$5,000 retainer to their invoices without further Court approval. In the event the fees reflected in Pikoff Attorneys' invoices exceed \$5,000, and the Receiver determines in his sound discretion that the services for which the additional fees were charged and the amount of fees were reasonable and necessary, the Receiver will seek this Court's authority to pay any additional amount to Pikoff Attorneys.

#### **CERTIFICATION OF CONFERENCE**

The undersigned counsel certifies that prior to filing this motion the Receiver conferred with counsel for the SEC, and with counsel for Defendants and Relief Defendants, regarding the relief requested herein and such counsel informed undersigned counsel that they consent to the requested relief.

WHEREFORE, the Receiver respectfully requests that this Court enter the proposed Order attached as **Exhibit B**, (i) authorizing the Receiver's employment of Johnathan Pikoff and Pikoff Attorneys as counsel to the Receiver to provide advice on Mexican legal issues arising from the Receivership Estate's interest in real property located at The Residences at Solaz, Unit 203, San Jose del Cabo, Mexico in which the Receivership Estate has an interest, to coordinate marketing the property for sale, to prepare the transaction and other documents necessary to effectuate the sale and transfer of title of the property, and to recover the sale

proceeds for the Estate, (ii) authorizing the Receiver to pay a \$5,000 advance retainer to Pikoff Attorneys, which may apply such retainer to the balances of its periodic invoices to the Receiver, without further order of this Court, and (iii) granting such other and further relief as the Court deems just and proper.

Dated: September 17, 2024

s/ *Russell Landy*

Russell Landy, Esq.  
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*Admitted Pro Hac Vice*

*Lead Counsel for Kenneth D. Murena,  
as Court-Appointed Receiver*

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**CERTIFICATE OF SERVICE, FONT AND MARGINS**

I HEREBY CERTIFY that on September 17, 2024, I electronically filed the foregoing document using the CM/ECF System that will automatically send e-mail notification of such filing to all registered attorneys of record.

I FURTHER CERTIFY that I prepared this document in 14 point Times New Roman font and complied with the margin and type requirements of this Court.

Dated: September 17, 2024.

s/ Russell Landy

Russell Landy, Esq.

Florida Bar No. 44417

*Admitted Pro Hac Vice*

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